

ALSTON & BIRD LLP

90 Park Avenue
New York, NY 10016

212-210-9400
Fax: 212-922-3881
www.alston.com

Deepro R. Mukerjee

Direct Dial: 212-210-9501

Email: deepro.mukerjee@alston.com

January 25, 2017

VIA ECF

Honorable Katherine B. Forrest
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *Verint Systems Inc., et al. v. Red Box Recorders Ltd.*, Case No. 14-5403-KBF;
Representative Claims

Dear Judge Forrest:

Seeking the Court's indulgence, we write regarding Plaintiffs' proposal as to the claims to be adjudicated at trial. (D.I. 181). As Verint notes, the parties are in agreement with respect to the claims of the '763 patent, the '324 patent, and the '386 patent. Red Box respectfully submits that independent claims 2 of the '798 patent, claim 2 of the '220 patent, and claim 1 of the '854 patent should be adjudicated before any dependent claims, as non-infringement of an independent claim necessarily leads to a finding of non-infringement of dependent claims. *See Baseball Quick, LLC v. MLB Advanced Media L.P.*, No. 11-CV-1735 KBF, 2014 WL 6850965, at *4 (S.D.N.Y. Dec. 4, 2014), *aff'd*, 623 F. App'x 1012 (Fed. Cir. 2015). As such, if Red Box were found not to infringe each of those claims, there would be no need for subsequent trials. The same cannot be said with respect to Verint's proposed claims.

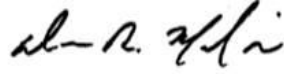
In addition, Verint is not prejudiced by Red Box's proposal with respect to validity determinations either. Even if the independent claims were found to be invalid, such invalidity does not mean that the dependent claims are necessarily invalid. *See Sandt Tech., Ltd. v. Resco Metal & Plastics Corp.*, 264 F.3d 1344, 1356 (Fed. Cir. 2001) ("Because dependent claims contain additional limitations, they cannot be presumed to be invalid as obvious just because the independent claims from which they depend have properly been so found."). For these reasons, Red Box submits that its proposal serves judicial and party economy.

Should the Court wish to discuss the parties' respective proposals, we are available at the Court's convenience.

January 25, 2017

Page 2

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. R. Mukerjee', written in a cursive style.

Deepro R. Mukerjee

cc: Attorneys of record